

Chapter 12. Safe Drinking Water Project Funding

Article 1. Definitions

Section 63000.17. Consolidation Project.

"Consolidation project" means a project that involves the restructuring of two or more water systems into a single public water system. Such restructuring may include either a physical consolidation of the water systems or the consolidation of their management and organizational structures, or both. In addition to one or more applicant water systems, a consolidation project may involve a non-applicant public water system that will own and operate the applicant public water systems following completion of the consolidation project.

NOTE: Authority cited: Section 116760.40, Health and Safety Code.

Reference: Sections 116760.10(g), 116760.20(g), and 116761(b), Health and Safety Code.

Section 63000.19. Construction Funding.

"Construction Funding" means a loan and/or grant to cover the cost of planning, preliminary engineering, design, acquisition of water systems, purchase of land or equipment, and construction or consolidation of a water system project.

NOTE: Authority cited: Section 116760.43, Health and Safety Code.

Reference: Sections 116760.20(e), 116760.30, ~~and~~ 116760.40, 116761.20(a), and 116761.50(b)(2), Health and Safety Code.

Section ~~63000.37~~ 63000.67. Notice of Acceptance of Application.

"Notice of Acceptance of Application" means a notice sent to the applicant that (1) identifies the portions and costs of the project that have been determined to be eligible for State Revolving Fund funding; (2) explains the terms and conditions that will govern the loan or grant for the project; and (3) sets forth the conditions and schedules that must be met by the applicant, and/or restructured water system before a funding agreement will be executed.

NOTE: Authority cited: Section 116760.43, Health and Safety Code.
Reference: Section 116760.70, Health and Safety Code.

Section 63000.40. Funding Application.

"Funding Application" means the appropriate application form to be submitted by an applicant for State Revolving Fund funding. The application forms are: Application for Construction Funds [DHS 8585 (1/99)]; Application for Short Term Planning Loans [DHS 8586 (1/99)]; Application for Source Water Protection Funds [DHS 8588(4/99)]; and Application for Refinancing [DHS 8587 (1/99)], which are all incorporated by reference.

NOTE: Authority cited: Section 116760.43, Health and Safety Code.
Reference: Section 116760.79, Health and Safety Code.

Section 6300.43. Funding Agreement.

"Funding Agreement" means the loan and/or grant document that is signed by the funding recipient and the Department of Water Resources, acting as the agent for the Department, that consummates the funding agreement.

NOTE: Authority cited: Section 116760.43, Health and Safety Code.

Reference: Sections 116760.20(e), 116760.30, ~~and~~ 116760.40, 116761.20(a), and 116761.50(b)(2), Health and Safety Code.

Section 63000.47. Funding Recipient.

"Funding recipient" means the public water system that enters into a funding agreement with the State and receives funding from the Safe Drinking Water State Revolving Fund. In a consolidation project, either an applicant or the restructured public water system may be the funding recipient.

NOTE: Authority cited: Section 116760.40, Health and Safety Code.
Reference: Section 116760.40, Health and Safety Code.

Section 63000.62. Median Household Income.

"Median Household Income" means the household income that represents the median value for a the service area of a public water system.

NOTE: Authority cited: Section 116760.43, Health and Safety Code.
Reference: Section 116761.21, Health and Safety Code.

Section 63000.66. Non-profit.

"Non-profit" means an entity that is exempt from taxes under United States Internal Revenue Code Section 501(a), 11 U.S.C. 501(a).

NOTE: Authority cited: Section 116760.40, Health and Safety Code.

Reference: Sections 116760.10(l) and 116760.40, Health and Safety Code.

Section 63000.70. Possible contaminating activity (PCA).

“Possible contaminating activity (PCA)” means a human activity that is an actual or potential origin of contamination for a drinking water source and includes sources of both microbiological and chemical contaminants that could have adverse effects upon human health.

NOTE: Authority cited: Section 116762.60 Health and Safety Code

Reference: Section 116760 et. seq. Health and Safety Code

Section 63000.81. Restructured Water System.

"Restructured water system" means a public water system in a consolidation project that survives the consolidation, and that after completion of the consolidation project will own and operate the other water systems involved in the consolidation project.

NOTE: Authority cited: Section 116760.40, Health and Safety Code.

Reference: Sections 116760.10(g), 116760.20(g), 116760.40, and 116761(b) and (c), Health and Safety Code.

Section ~~63000.86.~~ 63000.89. State Revolving Fund.

“State Revolving Fund” means the Safe Drinking Water State Revolving Fund created pursuant to section 116760.30 of the Health and Safety Code.

NOTE: Authority cited: Section 116760.43, Health and Safety Code.
Reference: Section 116760.30, Health and Safety Code.

Section 63000.84. Source Water Assessment.

“Source water assessment” means an evaluation of a drinking water source that includes delineation of the boundaries of the source area, identification of PCAs within the delineated area, a determination of the PCAs to which the source is most vulnerable, and a summary of the vulnerability of the source to contamination.

NOTE: Authority cited: Section 116762.60 Health and Safety Code

Reference: Section 116760 et. seq. Health and Safety Code

Section 63000.85. Source Water Protection (SWP).

“Source water protection (SWP)” means the process of managing the activities within a delineated source area to prevent drinking water source contamination.

NOTE: Authority cited: Section 116762.60 Health and Safety Code

Reference: Section 116760 et. seq. Health and Safety Code

Section 63000.86. Source Water Protection Program.

“Source water protection program”, also known as a wellhead protection program or a watershed management program, means a comprehensive program developed to protect a water source used as a drinking water supply and includes activities such as organizing a community taskforce to develop and carry out the protection program, educating the community on source protection, conducting a source water assessment to determine the PCAs to which the source is most vulnerable, identifying management measures for the PCAs posing the highest risk, developing a strategy for implementing those measures, considering protection principles when siting any new sources, and identifying alternative sources of supply for emergencies.

NOTE: Authority cited: Section 116762.60 Health and Safety Code
Reference: Section 116760 et. seq. Health and Safety Code

Section 63000.87. Source Water Protection (SWP) Loan.

"Source Water Protection (SWP) loan" means a loan to cover the cost of a Source Water Protection Project.

NOTE: Authority cited: Section 116762.60 Health and Safety Code
Reference: Section 116760 et. seq. Health and Safety Code

Section 63000.88. SWP loan applicant.

“SWP loan applicant” means a water system that is applying for a SWP loan from the State Revolving Fund.

NOTE: Authority cited: Section 116762.60 Health and Safety Code

Reference: Section 116760 et. seq. Health and Safety Code

Section ~~63000.89~~. 63000.90. Target Consumer Rate.

“Target Consumer Rate” means an amount equal to 1½ percent of the median household income for water systems where the median household income is equal to or less than the statewide median household income or 2 percent of the median household income for water systems where the median household income is greater than the statewide median household income.

NOTE: Authority cited: Section 116760.43, Health and Safety Code.
Reference: Section 116760.70, Health and Safety Code.

Article 2. Financing Criteria

Section 63010. Project Eligibility.

(a) Each funding recipient shall demonstrate its authority to enter into a debt contract with the State.

(b) In order to be eligible for funding, an applicant shall be either a community water system or a non-profit non-community water system ~~and have the authority to enter into a debt contract with the State.~~

~~(b)~~ (1) Only those project costs that are directly associated with the planning, design, and construction of a project shall be eligible for funding.

~~(c)~~ (2) The following project costs, that would otherwise be eligible pursuant to paragraph (1) ~~subsection (b)~~, shall be ineligible for funding:

~~(1)~~ (A) Land acquisition except for land or land access that is integral to the construction of source, treatment or distribution facilities.

~~(2)~~ (B) Ongoing operation and maintenance costs.

~~(3)~~ (C) Any project facilities that are primarily to serve future growth.

~~(4)~~ (D) Dams or rehabilitation of dams and any raw water storage facilities.

~~(5)~~ (E) Water rights except water rights acquired through consolidation with another water system.

~~(6)~~ (F) Laboratories except those necessary for operation of a treatment facility.

(c) In order to be eligible for a SWP loan, an applicant shall be a community water system, except that both a community and a non-profit noncommunity water system shall be eligible for a loan for land or easement acquisition.

(1) Project costs that are eligible for funding include only those that are associated with source water protection measures such as destruction of abandoned wells, hazardous waste collection programs, upgrade or abatement of septic systems, public education, water quality monitoring at critical points in protection areas, fencing out cattle and other animals from intakes, tributaries or reservoir boundaries, restricting public access to critical areas in protection areas, evaluations of agricultural practices and education on best management practices, installation of signs at boundaries of zones or protection areas, land acquisition, conservation easements, and structures to divert contaminated runoff from the source.

(2) Project costs that are ineligible for funding include any for which other funding mechanisms already exist, such as cleanup for identified hazardous waste sites and leaking underground storage tanks.

~~(7)~~ (d) Costs arising from construction change orders that occur after funding agreement execution shall be ineligible for funding except for the following:

~~(A)~~ (1) A change in the executed funding agreement amount based on the final accepted construction bid as provided in section 63051 (b).

~~(B)~~ (2) Change orders that are a result of changes in drinking water standards.

~~(C)~~ (3) Change orders requested by the Department.

NOTE: Authority cited: Sections 116760.43, ~~and~~ 116760.50, and 116762.60, Health and Safety Code.

Reference: Sections 116760.10 (l), 116760.40 (f), 116760.50 and 116761, Health and Safety Code.

Section 63013. Refinancing Loans.

- (a) Refinancing loan funds shall ~~only~~ be used only to refinance the remaining balance of an existing indebtedness incurred by the construction of an eligible project, which project is ranked in a category A through G on the Project Priority List.
- (b) An applicant for a refinancing loan shall be a public agency.
- (c) Refinancing loans shall be limited to a maximum amount of \$20,000,000 per project and an aggregate total of \$30,000,000 per water system from a federal funding allocation.

NOTE: Authority cited: Section 116760.43, Health and Safety Code.

Reference: Sections 116760.20(g), 116760.42 (b), 116760.50. and 116761, Health and Safety Code.

Section 63015. SWP loans

- (a) SWP loan funds may be used for planning, preliminary engineering, detailed design, construction, education, land acquisition, conservation easements, equipment purchase, and implementing the elements of a source water protection program.
- (b) SWP loans shall be limited to a maximum amount of \$2,000,000 per project per year.
- (c) A SWP loan applicant shall not be awarded more than an aggregate amount of \$3,000,000 in SWP loans in any fiscal year.
- (d) A planning project funded by a SWP loan shall be completed and a planning report submitted to the Department within 18 months from funding agreement execution.

NOTE: Authority cited: Section 116760.50 and 116762.60 Health and Safety Code
Reference: Sections 116760.80 (b), and 116761 Health and Safety Code

Article 3. Disadvantaged Communities

Section 63020. Grant Eligibility.

Funding in the form of a grant shall be made only to a public water system owned by a public agency whose service area is that is serving a disadvantaged community. In the case of a consolidation project, the service area of the applicant public water system(s) shall be used to determine grant eligibility for the project.

NOTE: Authority cited: Section 116760.43, Health and Safety Code.

Reference: Sections 116760.10(g), 116760.20 (h) and 116761.23 (b), Health and Safety Code.

Section 63021. Grant Limitations.

- (a) The maximum amount of grant funding to be awarded to a project shall be limited to the following percentages according to the classification of the project using the Project Priority List adopted September 15, 1998, pursuant to Health and Safety Code section 116760.70:
 - (1) 80% of the eligible project cost if the project is in Project Priority List categories A through G;
 - (2) 65% of the eligible project cost if the project is in Project Priority List categories H through L; or
 - (3) 50% of the eligible project cost if the project is in Project Priority List categories M through O.
- (b) Grant funds awarded to a disadvantaged community project shall not exceed \$10,000 per service connection.
- (c) The maximum amount of grant funding that one water system may receive from a federal funding allocation shall not exceed \$1,000,000.
- (d) The total amount of grant funding awarded to a disadvantaged community for a project shall be limited to the amount of funding needed so that the projected average residential water rate, which would result from a loan from the State Revolving Fund, will not exceed the target consumer rate.
- (e) For consolidation projects, the limitations and maximum grant calculations set forth in this section shall be applied to each applicant public water system involved in the consolidation project, and the grant eligibility for the entire consolidation project shall be the total of the eligibilities for the individual applicants.

NOTE: Authority cited: Section 116760.43, Health and Safety Code.

Reference: Sections 116760.10 (g) and (l), 116760.40, 116760.42 (b) and 116760.70, Health and Safety Code.

Article 4. Application Process

Section 63025. Funding Application.

- (a) All funding applications shall be submitted by public water systems only after a water system has received a written invitation from the Department to do so.
- (b) Upon receipt of a written invitation from the Department to submit a funding application, an applicant shall indicate their intention to submit the application within the deadline set forth in the letter by signing a statement of intent. The statement of intent shall be received by the Department prior to close of business on the day indicated in the invitation.
- (c) In order to be assured of receiving funding consideration from a specific federal funding allocation, a completed funding application shall be submitted to the Department by close of business on the date set forth in the letter of invitation.
- (d) A funding application shall not be accepted for processing unless the funding application form is completed and the additional information specified below is submitted:
 - (1) For SWP loan applications, the information in Sections 63026(d), 63026(e), 63027, and 63028(a).
 - (2) For all other funding applications, the information in sections Sections 63026, 63027, and 63028 is submitted.

NOTE: Authority cited: Section 116760.43, Health and Safety Code.
Reference: Section 116760.79, Health and Safety Code.

Section 63026. Technical Information.

- (a) Each funding application for construction funding or a refinancing loan shall contain the following information:
 - (1) A map showing the current service area of the water system.
 - (2) A map or drawing showing the location of all existing water sources, pumping facilities, treatment facilities, storage tanks or reservoirs, water transmission mains, and water main pressure zones.
 - (3) A schedule for full compliance with CEQA and NEPA.
- (b) Each applicant for construction funding shall prepare and submit with the funding application, an engineering report addressing all of the following elements:
 - (1) An identification and evaluation of alternative solutions to the problem. The evaluation shall compare estimated project costs, relative effectiveness in solving the problem, and environmental impacts of each alternative.
 - (2) An evaluation, including costs and feasibility, of possible physical consolidation with other water systems.
 - (3) A description of the selected or proposed alternative.
 - (4) A conceptual or preliminary engineering design, including the design capacity of project components, and a schematic layout of the proposed project. All assumptions, criteria, and calculations used for the preliminary design shall be shown.
 - (5) An analysis and estimation of the anticipated useful life of components of the proposed project.
 - (6) A preliminary analysis of projected growth anticipated to occur within the service area within the next ten years, the resultant projected water demand, and the amount of growth or water demand to be included in the project.
 - (7) A proposed design and construction schedule.
 - (8) A cost estimate breakdown of the proposed project.
 - (9) In the case of a consolidation project, each funding application also shall include identification of the restructured water system that will result from completion of the consolidation project.
- (c) Each funding application for a refinancing loan shall include all of the following:

- (1) A description and estimated costs of all alternative solutions to the problem that were considered prior to construction of the selected project.
- (2) A layout or schematic drawing showing the location and relationship of all project facilities including the newly constructed portions.
- (3) A description of the facilities that were constructed and for which refinancing is being requested including an estimate of their useful life.
- (4) The design capacities of project components and the design parameters and engineering calculations used in the sizing and design of the project components.
- (5) An analysis and estimation of the water demand within the service area at the time of start of construction of the project and a projection of anticipated growth and water demand for a ten-year period commencing from the time of start of construction.
- (6) A cost breakdown of the constructed project.
- (7) As-built plans for all of the construction facilities that are to be covered by the refinancing loan.
- (8) The final plans and specifications used to solicit and select the construction bid.
- (9) Information that demonstrates that the applicant has complied with all applicable federal cross-cutters ~~have been complied with~~.

(d) Each SWP loan applicant shall submit the following:

- (1) A completed source water assessment for each drinking water source addressed by the proposed project.
- (2) A list of the types of contaminants that the proposed project is intended to address and the associated PCAs.
- (3) A description of the dimensions and location of the area or zone in which the associated PCAs are located.
- (4) A map showing water system facilities, intake or well location, and source protection areas and/or zones.
- (5) A description of the local community taskforce addressing source water protection (if one exists). The description shall include a list of the

participants and their affiliations, and the methods used to establish the membership in the taskforce.

(6) A schedule for full compliance with CEQA and NEPA.

(e) Each SWP loan applicant shall prepare and submit an engineering report with the loan application that addresses all of the following:

(1) Descriptions and estimated costs of all alternative solutions to the problem that were considered prior to selection of the proposed project.

(2) A description of the proposed project.

(3) A conceptual or preliminary engineering design and schematic layout of the proposed project, if applicable. All assumptions, criteria and calculations used shall be shown.

(4) An analysis and estimation of the anticipated useful life of the components of the proposed project, if applicable.

(5) A proposed schedule for carrying out the proposed project.

(6) A cost estimate breakdown of the proposed project.

NOTE: Authority cited: Section 116760.43 and 116762.60, Health and Safety Code.
Reference: Sections 116760.40, 116760.79 and 116760.90, Health and Safety Code.

Section 63027. Managerial Information.

Each funding application shall contain the following:

- (a) Copies of any leases, easements, or other documentation for land, water sources, treatment, pumping, storage, or distribution facilities used in the operation of the water system that are not owned by the water system.
- (b) A written statement ~~by an attorney~~ certifying that applicant, or in the case of a consolidation project, the restructured water system, is a legal entity ~~authorized to operate a public water system~~ and that it has the authority to enter into a long-term indebtedness with the State of California.
- (c) A description of the water rights held by the water system and any available documentation to substantiate those rights.

NOTE: Authority cited: Section 116760.43, Health and Safety Code.

Reference: Sections 116760.50, 116760.79 and 116760.90, Health and Safety Code.

Section 63029. Notice of Acceptance of Application.

(a) Within ~~30~~ 60 days of receipt of a Notice of Acceptance of Application from the Department of Water Resources, the applicant shall indicate ~~their~~ its acceptance of the terms and conditions of the funding offer by countersigning the letter and returning it to the Department of Water Resources.

(b) If the proposed project is a consolidation project for which the restructured water system is not one of the applicants, within 60 days of receipt of a Notice of Acceptance of Application from the Department of Water Resources, the applicants and the restructured water system shall indicate their acceptance of the terms and conditions of the funding offer by countersigning the letter and returning it to the Department of Water Resources.

NOTE: Authority cited: Section 116760.43, Health and Safety Code.
Reference: Sections 116760.40 and 116760.50, Health and Safety Code.

Section 63030. Project By-passing.

(a) A project on the Project Priority List shall be by-passed for funding consideration for the current fiscal year if any of the following apply:

- (1) The water system indicated that it did not desire to receive funding for a particular project in the current fiscal year.
- (2) A water system fails to sign a statement of intent to submit an application and return it to the Department by the date identified in the letter as specified in ~~section~~ Section 63025(b).
- (3) A water system, receiving an invitation from the Department to submit a funding application, informs the Department that it does not wish to submit an application at this time.
- (4) A funding application is rejected by the Department for failure on the part of the applicant to comply with the requirements of this chapter.
- (5) An applicant fails to sign and return the Notice of Acceptance of Application within 30 days of receipt of the Notice of Acceptance of Application.
- (6) The Department of Water Resources or the Department of Health Services withdraws a previously issued Notice of Acceptance of Application for failure on the part of the applicant to comply with the terms and conditions as stated in the Notice of Acceptance of Application.
- (7) The applicant has reached the \$3,000,000 loan maximum set forth in Section 63015 for a SWP loan, or the \$30,000,000 funding maximum set forth in ~~section~~ Section 63012 (b) for a construction funding or refinancing loan.

(b) Any project that is by-passed for any reason shall remain on the Project Priority List and be eligible for future funding consideration.

NOTE: Authority cited: Section 116760.43, Health and Safety Code.

Reference: Sections 116760.42 (b), 116760.70 (e) and 116761.50 (b)(3), Health and Safety Code.

**Article 5. Information to be Submitted Prior to
Execution of the Funding Agreement**

Section 63040. Technical and Financial Information.

- (a) All applicants for construction funding, SWP loans, or refinancing loans shall comply with all environmental review and procedural requirements of CEQA and NEPA prior to execution of the funding agreement.
- (b) Prior to execution of a funding agreement that includes a loan, each funding recipient ~~applicant for funding~~ shall submit the following:
 - (1) A resolution or ordinance adopted by the governing body dedicating the source of repayment of the loan.
 - (2) A completed and signed Fiscal Services Agreement [DWR-4280 (New 2/99) which is incorporated by reference].

NOTE: Authority cited: Section 116760.43, Health and Safety Code.

Reference: Sections 116760.10 (l), 116760.79 and 116760.90, Health and Safety Code.

Article 6. Design and Construction

Section 63050. Plans and Specifications.

- (a) Applicants for construction funding or SWP loans involving construction shall submit final design plans and project specifications to the Department in accordance with the schedule set forth in the Notice of Acceptance of Application.
- (b) Each project that requests funding in excess of \$500,000 and each project ~~Projects~~ specifications for projects proposed by water systems an applicant whose service area that serves more than 4,000-s 200 service connections shall comply with federal cross-cutters. Each SWP applicant shall comply with federal cross-cutters.

NOTE: Authority cited: Section 116760.43, Health and Safety Code.

Reference: Sections 116760.10 (l), 116760.90, 116761 and 116761.50 (b) (3), Health and Safety Code.

Article 7. Claims and Loan Repayments

Section 63057. Records.

- (a) All applicant records and documents relating to ~~the loan~~ any funds received, shall be maintained ~~by the loan recipient~~ until such time that ~~the~~ any loan has been fully repaid.
- (b) All applicant records and documents pertaining to the loan shall be available for inspection and audit by the Department or the USEPA during normal business hours.
- (c) In the case of a consolidation project, the requirements of this section shall also be met by the restructured water system.

NOTE: Authority cited: Section 116760.43, Health and Safety Code.
Reference: Section 116760.10 (l), Health and Safety Code.

Article 8. Consolidation Projects

Section 63058. Limitations on Water Systems Involved in Consolidation Projects.

Upon completion of a consolidation project resulting in a restructured water system, all water systems involved in the consolidation, other than the restructured system, shall cease to operate as public water systems.

NOTE: Authority cited: Section 116760.40, Health and Safety Code.

Reference: 116760.10(g), 116760.20(g), and 116760.40, Health and Safety Code.

